

Application Serial No. 10/581,954
Response to Office Action dated November 24, 2008

PATENT
Docket: CU-4863

REMARKS

At the issuance of the Office Action dated November 24, 2008, claims 1-15 are pending and 1-15 are rejected. The Applicant submits that the amendments made to the claims overcome the rejection of the same or the rejections are traversed by argument below. No new matter has been added.

Please delete the currently pending Abstract section and replace the Abstract section of the Application with the one presented herein. The Abstract has been replaced to more clearly and concisely disclose the invention. The replacement section of the Abstract can be viewed in the Amendments section in the Amendments to the Abstract beginning on page 3. No new matter has been added.

In the claims, please cancel claims 2, 4, and 13-15. Further, please amend claim 1 to include the elements of original claims 2 and 4. Moreover, please amend claim 5 to provide that the slug repellent comprises secretions from the pygidial glands of the ground beetles. Please also newly add claim 16. Claim 16 provides the particular type of ground beetle. The group is disclosed in the original disclosure, and therefore, no new matter has been added. In fact, the amendments to the claims are fully supported by the original disclosure, and therefore, no new matter has been added. The amendments to the claims can be viewed in the Amendments section in the Listing of claims beginning on page 6 of this paper.

In the Office Action, the Examiner objected to the Abstract section of the application. The Applicant has herein amended the Abstract and believes that the amendment is fully responsive to the Examiner's objection. The Applicant respectfully requests that the Examiner withdraw this objection.

In the Office Action, the Examiner rejected claims 13-15 under 35 U.S.C. §§101 and 112, second paragraph. In response, the Applicant has cancelled claims 13-15 rendering the rejection of the same moot. The Applicant respectfully requests that the Examiner withdraw this ground of rejection.

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In the Office Action, the Examiner rejected claims 1 and 4 under 35 U.S.C. §102(b), as being anticipated by Scott et al. The Applicant respectfully disagrees. The Applicant has hereby amended claim 1 to include the features of now cancelled claim 4. Moreover, claim 1 has been amended to include that the secretions are applied to a portion of a plant. The "application surface" in Scott et al. is a cooled vial. This in and of itself provides that claim 1 is not anticipated by Scott et al. because all of the features of claim 1 are not taught by Scott et al. whereby the secretions are applied to a portion of the plant. Furthermore, Scott et al. does not consider the secretions for repelling or deterring slugs. Rather, Scott et al. provide that these secretions are capable of "penetrating the mucous membranes on sensitive areas of potential vertebrate predators". (Scott et al. p. 810, paragraph 1). The present invention provides a method for deterring slugs. This is not taught by Scott et al. Clearly a slug is not a "vertebrate". At least for these reasons, claim 1 is novel. The Applicant respectfully requests that the Examiner withdraw this ground of rejection of the claims.

The Examiner also rejected claims 1 and 4 under 35 U.S.C. §102(b), as being anticipated by Will et al. The Applicant again disagrees. Will et al. provide that the secretions were collected on a piece of filter paper. The "applying step" of claim 1 is not taught by Will et al. whereby the secretions are applied to a portion of a plant whereby slugs are deterred or repelled. In fact, the "immediate threat" taught by Will et al. is to ants, not slugs. (Will et al. p. 477, paragraph 3.) Nowhere in Will et al. are slugs even mentioned. At least for this reason, claim 1 is novel and not anticipated by Will et al. The Applicant respectfully requests that the Examiner also withdraw this ground of rejection as to claim 1.

The Examiner rejected claim 5 under 35 U.S.C. §102(b), as being anticipated by Yoshiaki et al., by Kameda et al., by Kishida et al., by Martin et al., by Barnes Jr. et al., by Viout et al., Giletto et al., and Slugs and Snails Publication (2003) (hereinafter "SS").

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The Applicant respectfully disagrees. Claim 5 has been amended to provide that the repellent comprises ground beetle pygidial gland secretions. None of the references teach secretions from the pygidial glands of ground beetles. Because all of the features of claim 5 are not taught by the references, the Applicant submits that claim 5 is novel and not anticipated thereby. Claims 6-12 are dependant on independent claim 5. The Applicant respectfully request that the remarks made over claim 5 be both reflected in claims 6-12 and also overcome the rejections of the same. The additional limitations as are found in the dependant claims further serve to distinguish the claims from the alleged prior art. The Applicant respectfully requests that the Examiner withdraw the rejection of claims 5-12.

The Examiner also rejected claims 1 and 4 under 35 U.S.C. §103(a) as unpatentable over Scott et al. in view of SS. Claim 4 is cancelled by this amendment. Regarding claim 1, the Applicant submits that claim 1 is non-obvious. As discussed extensively above, Scott et al. does not disclose or suggest the "applying step" wherein the secretions are applied to a portion of a plant. Rather, Scott et al. provide that the application surface is a vial and SS provide that vinegar and water are sprayed directly onto the slugs. Claim 1 provides that beetle secretions are applied to a portion of a plant to deter or repel the slugs. The slugs smell the secretions rather than encounter them physically. Clearly, the method of claim 1 is different from the combination of the prior art as is evident by the tragic end to the slugs in SS whereby "The gastropods die almost immediately." (See SS, paragraph 5.) On the contrary, by the method of claim 1, "the slugs do not die during the course of this experiment. This must show that when slugs are exposed to beetle extracts there will be no side effects." (Original Abstract, now replaced). All of the features of claim 1 are not taught, disclosed, or suggested by the references. The Applicant submits, therefore, that claim 1 is non-obvious and respectfully requests that the Examiner withdraw this ground of rejection as to claim 1.

CONCLUSION

The Applicant believes that this response is responsive to all points raised in the Office Action dated November 24, 2008. The Applicant respectfully contends that all

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conditions of patentability are met in the pending claims and requests that the amendments be entered into the record. The Applicant respectfully submits that this Application should be in condition for allowance and respectfully requests favorable consideration.

Respectfully Submitted,



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